

Thomas Amodio, Bar No. 8511142
REEVES AMODIO LLC
500 L Street, Suite 300
Anchorage, AK 99501
Telephone: (907) 222-7100
Facsimile: (907) 222-7199
tom@reevesamodio.com

Roger W. Yoerges (*pro hac vice* motion pending)
Timothy A. Work (*pro hac vice* motion pending)
Mark Murphy (*pro hac vice* motion pending)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Telephone: (202) 429-3000
Facsimile: (202) 429-3902
ryoerges@steptoe.com
twork@steptoe.com
mmurphy@steptoe.com

Anthony A. Onorato (*pro hac vice* motion pending)
STEPTOE & JOHNSON LLP
1114 Avenue of the Americas
New York, NY 10036
Telephone: (212) 506-3900
Facsimile: (212) 506-3950
tonorato@steptoe.com

Attorneys for Plaintiff Pebble Limited Partnership

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

PEBBLE LIMITED PARTNERSHIP,

Plaintiff,

vs.

ENVIRONMENTAL PROTECTION
AGENCY, *et al.*

Defendants.

**DECLARATION OF ANDREW J.
SLONIEWSKY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

**CIVIL ACTION NO.
3:14-cv-00171 HRH**

/

I, Andrew J. Sloniewsky, state and declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney with Steptoe & Johnson LLP (“Steptoe & Johnson”), counsel for Plaintiff Pebble Limited Partnership (“PLP”) in this matter. I submit this declaration in support of Plaintiff’s Motion for Preliminary Injunction. This declaration is based on my personal knowledge, documents maintained by Steptoe & Johnson and PLP in the ordinary course of business, and information provided to me by representatives of Steptoe & Johnson and PLP. If called as a witness, I would testify consistent with this declaration.

2. As part of Steptoe & Johnson’s representation of PLP, I have been personally involved with PLP’s requests for documents from the United States Environmental Protection Agency (“EPA”) since May 2014. It is my understanding that between 2011 and 2013 PLP submitted several FOIA requests to EPA, and submitted a FOIA request to the United States Fish & Wildlife Service (“FWS”) in 2012. In addition, PLP submitted FOIA requests to EPA in January 2014 and June 2014.

3. PLP’s FOIA requests seek documents relating, in general, to EPA’s determination to proceed with its action taken under Clean Water Act Section 404(c), EPA’s assessment of the Bristol Bay Watershed, EPA’s reports concerning that assessment, and EPA’s communication’s with others regarding these issues.

4. In responding to PLP’s FOIA requests, it appears that EPA has failed to produce numerous responsive documents. In addition, many of the documents produced to date by EPA are redacted pursuant to the “deliberative process” exemption to FOIA. Portions of, or the entirety of, of some documents have been redacted, as have the identities of some persons communicating with EPA and within the agency.

DECLARATION OF ANDREW SLONIEWSKY IN SUPPORT OF PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION

Pebble Limited Partnership v. United States E.P.A. et al., No. 3:14-cv-00171 HRH

Page 2 of 5

5. PLP has submitted an administrative appeal regarding EPA's response to PLP's January 2014 FOIA request.

6. EPA has only recently produced a few documents in response to PLP's June 2014 FOIA request.

7. I, along with persons working under my supervision, recently attempted to determine the total number of discrete contacts, meetings, briefings, calls, conferences, webinars, etc., between EPA and the people identified in Plaintiff's complaint as being part of one or more of the alleged federal advisory committees ("FACs"). Based on that review of the FOIA documents produced to date, we determined that the total direct contacts between EPA and members of the FACs at issue in this case totaled over 500 from 2008 to 2014. For example, based only on the limited documents produced by EPA to date, between 2009 and 2014 it appears that Shoren Brown, a representative of Trout Unlimited, was in contact with EPA officials regarding Pebble Mine more than 200 times, and Jeff Parker, counsel to the six Alaska Native Tribes that petitioned EPA to take action under Section 404(c), was in contact with EPA officials regarding Pebble Mine more than 100 times.

8. The Exhibits attached to this Declaration, other than Exhibits 1, 92B, 103, 112, 161, 167, 168, 200, 201, 203, 204, 206, 207, 208A, 208B, 208C, and 208D, are true and correct copies of documents, or excerpts of documents, that were either provided by EPA or FWS in response to PLP FOIA requests, or are available through EPA's Bristol Bay electronic reading room. The Bristol Bay electronic reading room is a website where EPA makes available to the public certain documents from its files relating to the Bristol Bay Watershed.

9. Exhibits 1, 92B, 103, 112, 161, 167, 168, 200, 201, 203, 204, 206, 207, 208A, 208B, 208C, and 208D are true and correct copies of documents, or excerpts of documents, that were obtained from public sources other than EPA's Bristol Bay reading room.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 15th day of September, 2014, at Washington, DC.



ANDREW SLONIEWSKY

DECLARATION OF ANDREW SLONIEWSKY IN SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

Pebble Limited Partnership v. United States E.P.A. et al., No. 3:14-cv-00171 HRH

Page 5 of 5